

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to City Budget Office. Retain copy.)

1. Name of Initiator Samuel Hutchison, FPDR Director		2. Telephone No. (503) 823-5500	3. Bureau/Office/Dept. FPDR
4a. To be filed (hearing date): December 10, 2014	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and CBO Budget Analyst: November 19, 2014
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

Amend the Fire and Police Disability, Retirement and Death Benefit Plan so that the Plan will retain its tax-qualified status. (Ordinance)

2) Purpose of the Proposed Legislation:

The amendment is intended to bring the Plan into compliance with the applicable requirements of the Internal Revenue Code to allow the Plan to retain its tax-qualified status.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

None.

5) Expense: What are the costs to the City as a result of this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)

None.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

No change to appropriations.

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

YES: Please proceed to Question #9.

NO: Please, explain why below; and proceed to Question #10.

This is a requirement to maintain the Plan's tax-qualified status.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

c) How did public involvement shape the outcome of this Council item?

d) Who designed and implemented the public involvement related to this Council item?

e) Primary contact for more information on this public involvement process (name, title, phone, email):

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

No. Once the Plan is amended with this change, there will be no future action regarding the change.

Samuel Hutchison, FPDR Director

APPROPRIATION UNIT HEAD (Typed name and signature)

By Ordinance No. _____
 (_____, 2014)

SPECIAL COMPLIANCE AMENDMENT

TO

FIRE AND POLICE DISABILITY, RETIREMENT, AND DEATH BENEFIT PLAN

Pursuant to authority granted to the City Council of Portland under Chapter 5 of the Charter of the City of Portland, as amended (the "Plan"), the Plan is hereby amended by ordinance by the City Council as follows for good faith compliance with the requirements of IRS Rev. Rul. 2013-17 ("Rev. Rul. 2013-17") and IRS Notice 2014-19 ("Notice 2014-19") with regard to the definition of "spouse" and related terms, as required to maintain the Plan's tax-qualified status under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code") and shall be interpreted and construed consistent with such intent. This amendment supersedes all inconsistent provisions of the Plan, including but not necessarily limited to Ordinance No. 176258 (February 13, 2002) and Article I, Section 2.6 of Ordinance No. 185666 (October 4, 2012), and is retroactively effective to June 26, 2013.

1. Article 3 (FPDR Two and Three Benefits), Section 5-301, subsection (c) is deleted in its entirety and replaced with the following in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in *United States v. Windsor*, 570 U.S. ___, 133 S.Ct. 2675 (2013) ("*Windsor*") concerning the constitutionality of Section 3 of the Defense of Marriage Act of 1996 (P.L. 104-199) as amended ("DOMA"):

"(c) Surviving Spouse. Death benefits shall be paid to the Surviving Spouse of a deceased FPDR Two or Three Member in accordance with this Chapter. A "Surviving Spouse" for purposes of this Article means the individual who, at the time of the FPDR Two or Three Member's death, was the Spouse of the Member. Moreover, to be considered the Member's Surviving Spouse, the individual must also (i) have been the Member's Spouse throughout the 12-month period immediately preceding the Member's death and (ii) have not been judicially separated or divorced by interlocutory or final court decree at the time of death, unless otherwise provided in a domestic relations order that is enforceable with respect to the Member's Plan benefit. Death benefits paid to a Surviving Spouse of an FPDR Three Member shall be adjusted in accordance with the offset provisions in this Chapter. For purposes of this Article, the term "Spouse" shall, on and after June 26, 2013, mean an individual to whom a Member is lawfully married under state law, and shall be defined consistent with Rev. Rul. 2013-17 and Notice 2014-19, under which the terms "Spouse," "husband and wife," "husband," and "wife" include an individual married to another individual of the same sex if the individuals are lawfully married under state law, and the term "marriage" includes such a marriage between individuals of the same sex, provided that the marriage was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages."

2. Article 5 (FPDR One Benefits), Section 5-126 (Definitions of Terms), item 3, is deleted in its entirety and replaced with the following in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in *Windsor* concerning the constitutionality of Section 3 of DOMA:

“3. The term “Surviving Spouse” for purposes of this Article shall include widower, and shall mean the individual who, at the time of the member’s death, was the Spouse of a member. Moreover, to be considered the member’s Surviving Spouse, the individual must also have not been judicially separated or divorced by interlocutory or final court decree at the time of death, unless otherwise provided in a domestic relations order that is enforceable with respect to the member’s Plan benefit.

3. Article 5 (FPDR One Benefits), Section 5-126 is amended to add new item 15 as follows in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in *Windsor* concerning the constitutionality of Section 3 of DOMA, and to rename existing item 15 as item 16:

“15. For purposes of this Article, the term “Spouse” shall, on and after June 26, 2013, mean an individual to whom a member is lawfully married under state law, and shall be defined consistent with Rev. Rul. 2013-17 and Notice 2014-19, under which the terms “Spouse,” “husband and wife,” “husband,” and “wife” include an individual married to another individual of the same sex if the individuals are lawfully married under state law, and the term “marriage” includes such a marriage between individuals of the same sex, provided that the marriage was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.”

4. Article I, Section 2.6 (Spouse) of that certain Special Compliance Amendment adopted pursuant to Ordinance No. 185666 shall retroactively be without effect commencing June 26, 2013.

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